CMPMO No.19 of 2006.

24.10.2007. Present: Mr. N.K. Thakur, Advocate, for the petitioner.

Mr. Sanjeev Kuthiala, Advocate, for respondents No.1 to 5 and 8.

By the impugned order dated 20th December, 2005 the prayer of respondent No.8 for amendment of written statement was allowed and she was permitted to file an amended written statement which undoubtedly is different than the original written statement filed by her on 3rd May, 2000, also verified on the same date. Mr. Sanjeev Kuthiala, learned counsel appearing for some of the respondents submitted that on 20th December, 2005 itself, the learned trial Court had also passed an order allowing the amendment application of the plaintiffs filed under Order 6 Rule 17 CPC for amendment of the plaint. At page 273 of the trial Court file, I have actually seen this order dated 20th December, 2005. It clearly reveals that the learned trial Court had in fact allowed the amendment application of the plaintiffs for amending the plaint. Undoubtedly this order dated 20th December, 2005 allowing the prayer of the plaintiffs for amendment of the plaint has not been challenged by the petitioner. Pursuant to the aforesaid prayer being allowed, the amended plaint was filed by the plaintiffs. Naturally once the amended plaint is filed by the plaintiffs, the defendants have a right to file an amended written statement to the amended plaint. This right of filing

amended written statement to the amended plaint is independent of any right which might accrue to the defendants to file an amended written statement pursuant to the permission granted to do so in an application seeking amendment of the written statement. Both stand on different footings. Once an amended plaint is filed, right to file amended written statement is untrammelled.

Whatever averments have been incorporated in the amended written statement, therefore, would be the subject matter of framing of additional issues. In fact the additional issues were framed by the learned trial court on 2nd May, 2006, I am told that the parties are at trial on these Issues as well.

Based on the aforesaid, I feel that no interference is warranted by this Court as far as the impugned order is concerned. However, I do wish to observe and direct that uninfluenced by the passing of the impugned order, the learned trial Court at appropriate stage of the suit shall keep into consideration the effect, if any, of the changed stance of respondent No.8 (defendant No.2 Kartari Devi).

The petition is dismissed. The dismissal of this petition shall not influence the outcome of the suit in any manner, which shall be disposed of on its merits and in accordance with law.

CMP No.13 of 2006.

In view of the dismissal of the main petition, this application shall stand dismissed.

24th October, 2007. (V.K. Gupta), C.J.
(tr)